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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

1ST TECHNOLOGY LLC, Plaintiff, vs. IQ-LUDORUM, PLC, PLAYTECH CYPRUS, LTD., TILTWARE, LLC, and KOLYMA CORPORATION, A.V.V., Defendants.	Case No.: 2:06-cv-323-LDG-RJJ **DEFENDANT TILTWARE, LLC's REPLY IN SUPPORT OF ITS MOTION TO DISMISS FOR IMPROPER VENUE OR, IN THE ALTERNATIVE, FOR TRANSFER OF VENUE**

Defendant TiltWare, LLC ("TiltWare") respectfully submits this reply in support of its motion to dismiss this case based on improper venue or, in the alternative, to transfer venue to the United States District Court for the Central District of California, Western Division.

Although TiltWare moved to dismiss this case based on improper venue, the central focus of TiltWare's motion was its request to *transfer* this case to the Central District of California, which is a more convenient forum. In response, 1st Technology devoted approximately 13 pages of its 15 page opposition arguing that venue is proper in the District of Nevada and devotes just over 1 page of its opposition arguing that the Court should not transfer venue to the Central District of California. Instead of facing the prospect of lengthy and costly discovery regarding whether or not venue is proper in this case (which requires analysis of whether personal jurisdiction exists), TiltWare is willing

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to concede that venue is proper in the District of Nevada. However, TiltWare strongly believes that this case should be transferred to the Central District of California, based on the doctrine of forum non-conveniens.

ARGUMENT

In its opposition, 1st Technology does not dispute the Court's power to transfer a case to a district in which the action "might have been brought" for the convenience of the parties and witnesses. See 28 U.S.C. § 1404(a). Similarly, 1st Technology does not dispute the fact that the Court must consider the following in determining whether to transfer venue: (1) whether an adequate alternative forum exists, and (2) whether the balance of private and public interest factors favors dismissal. See Piper Aircraft Co. v. Reyno, 454 U.S. 235, 254 n. 22, 257 (1981); Gulf Oil Corp. v. Gilbert, 330 U.S. 501, 504 (1947). Indeed, in its opposition, 1st Technology ignores most of the factors that the Court should consider in determining whether to transfer venue. Instead, 1st Technology relies on arguments that are not relevant in determining whether to transfer venue.

I. 1st Technology's Arguments in Opposing Transfer are Not Relevant

In its opposition, 1st Technology relies on three main arguments in opposing transfer of this case to the Central District of California.

1st Technology first argues that transfer is inappropriate because 1st Technology is located in the Northern District of California (rather, then the Central District as TiltWare had believed) and TiltWare is located in the Central District of California. Opp. at 13. However, this does not affect transfer of venue, because this action could have been brought in the Central District of California under Section 1404(a), because TiltWare is located in Los Angeles. See 28 U.S.C. § 1404(a).

1st Technology next argues that it is "simply inappropriate" to transfer this case with respect to defendants IQ-Ludorum and Playtech, neither of which have any relationship to TiltWare. Opp. at 14. TiltWare agrees that IQ-Ludorum and Playtech are not related in any way to TiltWare. In fact, TiltWare does not know anything about

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defendants IQ-Ludorum or Playtech (and believes that joining these unrelated defendants in an action against TiltWare constitutes misjoinder). However, IQ-Ludorum and Playtech should not affect transfer for several reasons. First, 1st Technology has settled with Playtech and dismissed this action against Playtech. Thus, Playtech is no longer a party. Second, IQ-Ludorum is a foreign defendant and, therefore, can be sued in any district. Third, 1st Technology has not established that IQ-Ludorum, which is based in Cyprus, has any contacts with Nevada. Nevertheless, if 1st Technology wants to proceed against IQ-Ludorum in Nevada, then the Court can dismiss the action against TiltWare and Kolyma and 1st Technology can file a new action against TiltWare in the Central District of California. Accordingly, the inclusion of IQ-Ludorum as a defendant does not affect the issue of whether this action should be maintained in the District of Nevada.

1st Technology's third argument is that "simple judicial expediency . . . suggests that the case be kept in Las Vegas." Opp. at 14. Although 1st Technology's argument is not clear, it seems to suggest that, because it gave TiltWare an extension of time to plead to the complaint, transferring the case would result in undue delay. However, 1st Technology would not be prejudiced by any delay arising from transfer of the case. Indeed, 1st Technology initially contacted TiltWare about alleged infringement of the patent-in-suit nearly a year ago in August 2005. Thereafter, detailed analyses and extensive discussion transpired between respective counsel for TiltWare and 1st Technology. After the parties failed to reach an informal resolution, 1st Technology still waited to commence this action. In any event, 1st Technology has completely failed to identify any specific way in which a brief delay arising from appropriate transfer would cause legal prejudice to it.

Accordingly, none of 1st Technology's bases for opposing transfer are valid.

II. The Relevant Factors Favor Transfer of this Case

Turning to the factors that matter, the Court must first determine whether a viable alternative forum exists. The Central District of California is clearly a viable alternative forum. In its opposition, 1st Technology states that it is "questionable" whether it will be able to proceed in another forum. Opp. at 8. However, 1st Technology fails to provide any evidence or valid argument that the Central District of California is not a viable forum. Indeed, 1st Technology concedes that the foreign defendants (Kolyma and IQ-Ludorum) can be sued in any district. 1st Technology's argument that "Nevada is a prime market for online gambling" is unsupported, not true, and, in any event, irrelevant to the issue of whether a viable alternative forum exists. Accordingly, 1st Technology has failed to establish that the Central District of California is *not* a viable alternative forum.

1st Technology does not directly address the specific private and public factors that the Court is required to consider in determining whether to transfer venue. Instead, 1st Technology generally refers the Court to 1st Technology's argument on the factors considered in determining whether jurisdiction is reasonable. While there is some overlap between factors considered in determining reasonable of personal jurisdiction and factors considered in determining whether to transfer venue, the factors are not the same. As a result, it is somewhat difficult to discern 1st Technology's position on several of the factors relevant to deciding whether to transfer venue. Nevertheless, TiltWare will attempt to do so and, for those few factors that 1st Technology bothers to address, TiltWare will respond.

1st Technology ignores most of the "private interest" factors that the Court must consider in deciding whether to transfer this case. The "private interest" factors include: (1) the residence of the parties and the witnesses; (2) the forum's convenience to the litigants; (3) access to physical evidence and other sources of proof; (4) whether unwilling witnesses can be compelled to testify; (5) the cost of bringing witnesses to trial; (6) the enforceability of the judgment; and (7) "[a]ll other practical problems that make trial of a case easy, expeditious and inexpensive." Gulf Oil, 330 U.S. at 508. In its opposition, 1st Technology admits that TiltWare resides in the Central District of California and that 1st Technology resides in the Northern District of California. 1st

Technology also argues, in a conclusory fashion, that TiltWare is "capable of defending itself" in Nevada and that it is "easier" for 1st Technology's counsel to travel to Las Vegas, than to Los Angeles. However, 1st Technology does not address most of the remaining private factors. Thus, as a whole, these factors weigh in favor of transfer.

Similarly, 1st Technology ignores most of the "public interest" factors that the Court must consider in deciding whether to transfer this case. The "public interest" factors include: (1) local interest of lawsuit; (2) the court's familiarity with governing law; (3) burden on local courts and juries; (4) congestion in the court; and (5) the costs of resolving a dispute unrelated to this forum. Piper Aircraft, 454 U.S. at 259-61; Gulf Oil, 330 U.S. at 508-09. 1st Technology ignores the burden on local courts and juries, congestion in the courts, and the costs of resolving disputes unrelated to the forum. Instead, 1st Technology tries to play up the alleged Nevada interest in gambling and familiarity with governing law. Indeed, 1st Technology makes the bald, unsupported statement that "Nevada has a strong public policy interest in regulating and managing the pursuit of gaming activity within Nevada, including Internet-based activity . . . ." Opp. at 7. While TiltWare concedes that Nevada has a strong public policy in regulating and managing gaming activity *within* Nevada, TiltWare strongly disagrees with the statement that this policy extends to Internet gaming. Moreover and more importantly, this case involves alleged infringement of a patent involving compression of information over the Internet, not the regulation or management of gaming. Thus, 1st Technology's attempts to link this case with Nevada's public policy regarding gaming is misleading.

In sum, 1st Technology has failed to refute – let alone address – most of the factors relevant in determining whether to transfer this case. 1st Technology has failed to show that the Central District of California is not a viable alternative forum or that the public and private factors weigh against transferring this case.

CONCLUSION

For the foregoing reasons, the Court should transfer this case to the United States District Court for the Central District of California, Western Division.

Dated this 3rd day of July, 2006.

Respectfully submitted,

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By: /s/

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of LEWIS AND ROCA, LLP and that on this 3rd day of July, 2006, I caused the documents entitled:

DEFENDANT TILTWARE, LLC's REPLY IN SUPPORT OF ITS MOTION TO DISMISS FOR IMPROPER VENUE OR, IN THE ALTERNATIVE, FOR TRANSFER OF VENUE,

to be served electronically via the CM/ECF system to the attorneys listed below:

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